

EX-A  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re application of FREDRIC GOLDSTEIN**

**Docket no.: N898 (amended)**

**Serial No.: 09/340,303**

**Examiner: KIM, EUGENE LEE**

**Filing Date: 06/28/99**

**Art Unit: 3721**

**Title: RIBBON CURLING AND SHREDDING DEVICE**

**Commissioner of Patents and Trademarks, Washington, DC 20231**

**DECLARATION OF FREDRIC GOLDSTEIN**

**In Support Of His Petition To Withdraw The Holding  
Of Abandonment Of The Instant Applicaton.**

COMES NOW the declarant, Fredric Goldstein, of sound mind, capable of making this Declaration and personally acquainted with the facts herein, deposes and states under oath as follows:

1. I instructed my patent attorney Norman Friedland to file a reply to the Office Action mailed April 25, 2003 regarding the instant application. The critical date which would apply to statutory abandonment was October 25, 2003.
2. After sending my final comments and approval on the reply in August 2003, I instructed that Mr. Friedland should finalize and mail the reply to the PTO as soon as practicable but certainly that same week.
3. My clear understanding was that Mr. Friedland carried out these instructions, as is his practice. Indeed, I spoke to Mr. Friedland some weeks afterwards and his filing of this application was confirmed.
4. I received in September, 2003 an August 30, 2003 invoice for this work which itemized his final work on this application. A copy of relevant parts (non-relevant parts redacted) is attached as Exhibit C. This was additional confirmation that my prior

instruction to file the reply had been received and carried out. I note that it shows preparation for the extension of time petition and itemization for the petition fee, both on August 26, 2003.

5. After waiting a standard four months or so (please also para. 11), when I did not receive an Office Action nor a Notice of Allowance, I called directly to Examiner Kim and inquired about the application on or around January 16, 2004. I was informed by Examiner Kim that he had never received any reply to his prior Office Action. I called and e-mailed Mr. Friedland that same day and he confirmed (again) that the reply was in fact mailed.
6. Mr. Friedland called Examiner Kim and left a message. Mr. Friedland then e-mailed me and told me that Examiner Kim called him back and told Mr. Friedland to fax the reply which Mr. Friedland did on January 20, 2003.
7. I understood from a subsequent telephonic conversation with Examiner Kim that the reply was received and would be considered. However, I filed another IDS during that time period and I was told later on that this caused the reply to be pulled from Examiner Kim's desk and taken to the Special Program Office.
8. I spoke subsequently to Ethel Rollins-Cross, who I understand is the director of the Special Program Office, and I explained the situation. She informed me she would find and then take the reply directly to Examiner Kim and that the application was still alive.
9. After over one month, I inquired again and call Central Files where I was told that the reply was sitting there and that Examiner Kim need only pick it up. This apparently was not correct. Examiner Kim called Mr. Friedland and told him that the application would be considered abandoned and needed a petition to revive.

10. This is the sole reason why this petition was never filed earlier, for example during the January 20, 2004 fax transmission by Mr. Friedland to Examiner Kim, as I was led to understand that it would not be required. When informed last week that such a petition was required, I now compose it within days of such information and upon receipt of the all required exhibits file it the same day.
11. I note that during the pending period between August 2003 and my phone call in January 2004, I attempted several times to obtain on-line the status of the application on the USPTO website by typing in the application number under 'Search by Application'. However, each time, and still to this day, the result is the statement: "Sorry, the entered Application Number "09/340,303" is invalid" (this is copied and pasted directly from the PTO webpage). Had I been able to have obtained the status of the application on-line, I may have been able to ascertain prior to the six month deadline that the application was lost and thus not faced this situation of a holding of unavoidable abandonment. That I was disadvantaged by this is not my fault and I respectfully submit that I should not be harmed by it. I also note that I have brought this problem to the attention of the PTO on more than one occasion yet as of this Declaration, the problem persists.
12. I suspect that because of the earlier problems of the incorrect filing date and the abandoned claims being the subject of an Office Action, the inability of the PTO website to bring up the application on-line may be an internal PTO problem with the application. If that is correct, I believe that if the reply did indeed arrive at the PTO in August/September 2003, it may have been misfiled and set aside at Central Files since the application seems to be encountering administrative problems which could be why it does not show up on the PTO website. Certainly I believe I should be given the

benefit of the doubt in view of the fact that the application fails to appear in the PTO's own website.

13. I also note that I have encountered, as noted above, numerous administrative problems with this application and have expended time and resources to correcting the problem. My intent has always been, as the record shows, to fully prosecute this application until it is, hopefully, granted and at no time did I ever contemplate for a moment to allow it to be abandoned. This application is deemed to be of great value to myself and my company and therefore it would be counterintuitive to consider that I would ever allow such abandonment, especially after the prior efforts concerning this application and that the record shows irrefutably that the reply was completed at the end of August, barely one month past the three month deadline and nearly two months prior to the six month cutoff date for expiration. I was diligent to the best of my ability in insuring that it would be prosecuted in a timely fashion and save for the loss at some stage after leaving my patent attorney's office, it was in fact prosecuted in a timely fashion as upon my belief and knowledge (prior to January 16, 2004 where I was informed otherwise), this reply to the April 2003 Office Action was timely filed last year well within the statutory limit.

I declare under penalty of perjury under the laws of the United States of America that to the best of my personal knowledge and belief the foregoing is true and correct.



Fredric Goldstein

April 12, 2004

Date